

STATE OF NEW JERSEY

Board of Public Utilities

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Newark, NJ 07102

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ENERGY

IN THE MATTER OF THE NEW JERSEY
CLEAN ENERGY PROGRAM

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ORDER

DOCKET NO. EO02120955

(SERVICE LIST ATTACHED)

BY THE BOARD:

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq., ("EDECA" or "Act") was signed into law. Section 12a(3) of the Act, N.J.S.A. 48:3-60a(3), provides that the Board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs and after notice, provision for an opportunity for public comment and public hearing, and after consultation with the Department of Environmental Protection ("NJDEP"), shall determine the appropriate level of funding for energy efficiency and Class I renewable energy programs. The Act further provides that the Board shall determine, as a result, the programs to be funded by the Societal Benefits Charge ("SBC") and the level of cost recovery and performance incentives for old and new programs.

In response to these statutory provisions, the Board issued its Final Order in this proceeding on March 9, 2001, and directed that the utilities submit for Board approval within thirty days of the date of the Final Order, a Program Compliance Filing ("Compliance Filing") as defined in the Utilities/NRDC Stipulation ("Stipulation"). The Final Order required the Compliance Filing to include incentive levels and detailed program budgets for Board approval.

Atlantic City Electric Company d/b/a Conectiv Power Delivery ("Conectiv"), Jersey Central Power & Light Company d/b/a GPU Energy ("GPU"), New Jersey Natural Gas Company ("NJNG"), NUI Elizabethtown Gas Company ("NUI"), Public Service Electric and Gas Company ("PSE&G"), Rockland Electric Company ("RECO"), and South Jersey Gas Company ("SJG") (collectively referred to as the "Utilities") jointly filed the Compliance Filing on April 9, 2001, pursuant to the directive of the Final Order. The Compliance Filing was a collaborative effort by the Utilities and the Natural Resources Defense Council. The Board approved the compliance filing with certain modifications by Order dated August 15, 2001. On November 1, 2001 the Collaborative submitted the 2002 compliance filing, which has not been acted on by the Board.

Some parties have argued that there is an inherent conflict of interest in the utilities administering the energy efficiency and renewable energy programs, and that it would be more cost-effective for an independent statewide administrator ("ISA") to oversee the funds. The utilities and a few other parties have asserted that there are advantages to utility administration, including existing experience and infrastructure associated with prior programs.

The Board determined in the Final Order that utility administration was appropriate for a period of one year, during which time the Board retained a consultant, Davies Associates, to assist in evaluating how best to continue the administration of the energy efficiency programs and to assist in identifying the appropriate entity to act as ISA for the Customer Sited renewable program through the remainder of the 4-year period. Administrative costs have been a concern throughout this proceeding. The Board stated in the Final Order, "...that programs should be administered effectively and efficiently and, to the greatest extent possible, funding should be spent on actual program incentives and implementation." The Board further determined that in its oversight of the energy efficiency and renewable energy programs, it would monitor administrative costs to ensure they are not excessive and the Board's consultant would evaluate these costs. Davies Associates issued its final report with its recommendations to the Board on April 1, 2002.

By letter dated October 3, 2002, the Board approved the request by the Utilities in conjunction with NRDC to submit the 2003 Compliance Filing on November 1, 2002 instead of October 1, 2002.

The Board made a number of program modifications at its agenda meeting of December 18, 2002 to address several of the more pressing issues surrounding the future of the New Jersey Clean Energy Program. The Super Efficient Home Appliance Program, which will offer rebates to consumers for energy efficient lighting and energy efficient room air conditioners was approved by the Board at the December 18, 2002 Board meeting, as well as the Senior Weatherization Pilot Program, which is an expansion of the Comfort Partners program. The implementation of these two programs is going forward with strong Board Staff oversight.

Discussion and Conclusions

The issue of administration was a concern set forth in the Final Order. The Board, with advice from the newly created New Jersey Clean Energy Council, is responsible for determining the roster of programs, the general outline of program design and program funding levels. The Board defines administration as further developing of program details, contracting for program delivery and managing those contracts; defines implementation as the program delivery, such as processing grants and rebates, technical assistance to projects and review of applications; and defines oversight as the review and control of the administration and implementation in terms of effectiveness, efficiency and public benefit.

The two major administration issues are who will administer the programs and how much money is necessary for this function. The issue of a trust fund and performance incentives are also intertwined with the administration issue.

There are various options available regarding administration, but most parties agree that the Board can and should take a more active role. Below are three of the most likely options as to administration of these programs on a forward-going basis:

1. The Board could issue an RFP to hire an Independent Statewide Administrator for program administration and implementation.
2. The Board could take on the administrative responsibilities and contract out for some or all of the program implementation.
3. The Board could take on some of the administrative responsibilities and some of the implementation responsibilities and issue contracts for the remaining administrative and implementation duties.

The Board has taken the first major step in addressing these issues by approving in its decision at the December 18, 2002 public agenda meeting, the creation of the New Jersey Clean Energy Council which will advise the Board on the issues of administration, programming, funding levels, and performance measures.¹ The Board DETERMINED that certain of the current programs being administered by the Collaborative should be stopped or slowed, where appropriate, while others may continue, until the Board can act on the New Jersey Clean Energy Council recommendations. The Board DIRECTS the New Jersey Clean Energy Council to make a recommendation on the final administrative structure of the New Jersey Clean Energy Program by July 1, 2003.

The 2003 Utilities Compliance Filing contained the following programs:

- Residential Electric and Gas HVAC
- Residential Energy Star Products
- Residential Low-Income
- Energy Star Homes
- Residential Retrofit
- Commercial and Industrial Programs
- Customer-Sited Clean Energy Generation Program

The Board DIRECTS that Clean Energy Program funds collected through the SBC be used to hire consultants and/or additional BPU staff to provide data and analysis that will help both the Board and the New Jersey Clean Energy Council evaluate program choices. The Board DIRECTS the Board Staff to invoice the Utilities for expenses incurred by the Board of Public Utilities in the administration and implementation of the New Jersey Clean Energy Program, which invoices will be paid by the utilities within one month of the date of the invoice. The Board further DIRECTS that a member of Board Staff be responsible for overseeing the activities of the Collaborative, in order to integrate the policies of the Board and the recommendations of the New Jersey Clean Energy Council into the program delivery. The Collaborative will be directed to provide monthly fiscal reports and program updates to Board Staff and the New Jersey Clean Energy Council.

The Board ORDERS that an ongoing fiscal review be performed by Board Staff and DIRECTS Board Staff to establish specific accounting procedures, which all administrative agents will utilize in tracking and reporting expenditures.

The Board ORDERS that the New Jersey Clean Energy Program be represented in a specific graphic manner (e.g., logos, graphic design of materials, etc.) so as to establish a recognizable

¹ Commissioner Hughes abstained on the vote to create the New Jersey Clean Energy Council at the December 18, 2002, Agenda meeting in Docket No. EX99050347 et al.

image for the New Jersey Clean Energy Program and that Board Staff oversee and approve of this new graphic and marketing representation of the New Jersey Clean Energy Program on all Clean Energy Program materials going forward, including internet based representations and print, radio and television advertisements. All administrative agents shall be required to use the New Jersey Clean Energy Program name on all materials and advertisements developed for New Jersey Clean Energy Programs.

The Board ORDERS that the Clean Energy Program administrators use the interim budgets reflected in CHART I and II of this Order as guidance for implementation of programs until such time as the Board finalizes the 2003 budget. Further, the program administrators are to use the lower budget number from CHART I or CHART II as the interim planning budget on a program by program basis. For comparison and evaluative purposes, CHART III is attached at the end of this order, which shows the 2002 program budgets as filed by the Utilities, the interim 2003 planning budget associated with the straw proposal and the planning budget number to use for program planning purposes, until such time as the Board finalizes the 2003 budget.

The Board DIRECTS that the Utilities are prohibited from issuing new contracts or continuing existing contracts with implementation contractors in regard to the delivery of the New Jersey Clean Energy Program, until such time as the Board Staff reviews, modifies and approves the issuance or extension of these contracts. This review procedure includes any contracts that the Utilities intend to continue or renew in regard to the implementation of programs related to the New Jersey Clean Energy Programs. Board Staff will consult with the New Jersey Clean Energy Council in these matters as needed.

The Board DIRECTS that any future reorganization should recognize the distinction between administration/implementation and planning/design. At this time the Utilities should continue to perform the day-to-day program implementation, subject to Board Staff oversight, on a going-forward basis. Whatever the Board ultimately approves in the future, in terms of administrative structure will be done in an orderly fashion to avoid unnecessary disruption of programs. In the interim, Board Staff should attend the utility collaborative management meetings as an advisor/overseer.

The Board DIRECTS Board Staff to prepare recommendations and options for New Jersey Clean Energy Programs for review by the New Jersey Clean Energy Council.

The Board DIRECTS the New Jersey Clean Energy Council to review the attached CHART II and to comment and advise on the proposed programs and budgets.

CHART I below reflects the current New Jersey Clean Energy Programs and the modifications that the Board APPROVES for those programs. The Residential Energy Star Products program was addressed at the December 18, 2002 agenda meeting and reflected in the Order dated January 22, 2003. The Residential Energy Star Products program was replaced with the Super Efficient Home Appliance Program approved by the Board in that Order. The Residential Energy Star Products program is not reflected in CHART I for that reason.

CHART I Current Programs and Modifications

Residential Energy Efficiency Programs	2002 Budget (in millions)	Current Program Description	Program Status and Modifications (Prior to New Jersey Clean Energy Council recommendations)
HVAC Electric	\$17.1	Promotes efficient electric central heating and cooling systems through training, marketing and rebates.	<ul style="list-style-type: none"> Continues for retrofit On a going forward basis commitments for incentives for new construction can <u>only be made</u> in areas that are designated for growth in the State Plan.
HVAC Gas	\$7.1	Same as the HVAC Electric program, but for gas.	Same as above
Residential New Construction	\$14.7	Rebates to builders for new homes that meet federal efficiency standards; training and technical support; development of a statewide accreditation system.	On a going forward basis, commitments for incentives can <u>only</u> be made in areas designated for growth in the State Plan.
Residential Retrofit Program	\$1.2	Provides interested customers information on energy use and efficiency; offers software for customers to perform self-audit.	THIS PROGRAM IS SHUT DOWN AS IT IS AVAILABLE THROUGH FREE SOFTWARE ON THE WEB
Residential Low-Income	\$15.5	All cost-effective efficiency measures (lighting, heating systems, etc.) are installed in the homes at no cost to participants; eligibility is at or below 150% of the Federal Poverty Level ("FPL").	<ul style="list-style-type: none"> Program remains in place. A senior weatherization pilot was instituted as per the December 18, 2002 Board decision. Program will be opened up to qualified vendors in addition to Honeywell DMC.

CHART I con't

Commercial Energy Efficiency Programs	2002 Budget (in millions)	Current Program Description	Program Status and Modifications (Prior to New Jersey Clean Energy Council recommendations)
Commercial/Industrial (C/I) Construction	\$28.4*	Incentives for new commercial construction that uses energy efficient HVAC equipment. Also, rebates and incentives for retrofit of efficient equipment, such as lighting or motors. *Until such time as the budgets are finalized funding for schools, commercial new construction and commercial retrofit projects will come from the C/I Construction budget.	<ul style="list-style-type: none"> On a going forward basis, incentives for new construction is allowed <u>only</u> in areas designated for growth in the State Plan. No incentive for building commissioning is available for buildings over 50,000ft², except for school construction, because code requires buildings over 50,000ft² to do building commissioning.
Building O & M	\$0.9	Marketing and training for building operators.	THIS PROGRAM IS SHUT DOWN.
Compressed Air	\$0.6	Marketing and training for optimizing compressed air systems.	THIS PROGRAM IS FOLDED INTO THE C/I PROGRAM
Appliance Cycling	\$7.3	Pays incentives to customers to install appliance cycling equipment, which slows or shuts down equipment at peak energy use periods.	This is a peak reduction program with significant value, but this program should be moved out of the efficiency funding. Until another means of funding this program is developed, however, it will continue to receive SBC funding.
Schools EE &RE Education	\$1.0	Offers educational programming on energy, efficiency and renewable energy.	THIS PROGRAM IS SHUT DOWN
New School Construction Program	Funding for schools will still come from the C/I Program		<ul style="list-style-type: none"> Pay for fees required by the United States Green Building Council to register and certify a school to the Leadership in Energy and Environmental Design standard up to a maximum of \$2,500. Existing schools will be eligible under C/I retrofit program criteria.
Total Energy Efficiency	\$93.8		

CHART I con't

Renewable Energy Programs	2002 Budgeted Funding (in millions)	Current Program Description	Program Status and Modifications (Prior to New Jersey Clean Energy Council recommendations)
Customer Sited Program	\$16.5	This program markets and offers rebates for customer-sited renewable energy.	Continues.
Grid Supply Program	\$14.9	Run by the BPU, this is a grant program for renewable energy projects that will supply energy to the state's electric grid.	Issue the 2002 Grid supply solicitation
Total Renewable Energy Programs	\$31.4		
Total CRA Programming	\$125.2		

CHART II
Proposed 2003 Clean Energy Programs

Below is an outline of a Straw Proposal for the 2003 New Jersey Clean Energy Programs and recommended budget.

Proposed new programs or program elements are in italics.

Program Name	Recommended 2003 Budget	Program Description
Consumer Initiative (\$35 million)		
<i>Appliance Rebate Program</i>	\$14	<i>Offers rebates for efficient home appliances and lighting (e.g. room air conditioners, lighting, etc.)</i>
HVAC Rebate program	\$7	Offers rebates for efficient central air conditioning and heating systems.
Residential Low-Income Program w/ <i>Senior Weatherization Pilot</i> .	\$14	Pays for installation of all cost-effective energy efficiency measures for low-income residents up to 150% of federal poverty level (FPL). <i>A senior weatherization pilot program, capped at \$3 million, has been established for seniors in all electric homes in Monroe Township.</i>
<i>Efficiency and Renewable Energy Financing</i>	<i>Only administrative expenses</i>	<i>Develop various low-cost financial instruments, through partnerships with traditional lending sources, for renewables and energy efficiency measures, which can be used in conjunction with rebate and incentive programs.</i>

Business Initiative (\$20 million)		
Commercial Construction Program	\$10	Rebates and incentives to commercial and industrial and public sector consumers for highly efficient new construction. <i>Incentives will be reserved for construction in areas designated for growth.</i>
<i>Business Retrofit Program</i>	\$10	<i>This program would provide grants and incentives to small businesses and public sector consumers that perform energy efficient measures on their facilities.</i>
<i>Efficiency and Renewable Energy Financing</i>	<i>Only administrative expenses</i>	<i>Develop low-cost financial instruments for municipalities and businesses, through partnerships with traditional lending sources, for renewables and energy efficiency measures.</i>
School Initiative (\$12 million)		
School Efficiency Program (new and retrofit)	\$12	Rebates, incentives and training for efficient construction of new schools, and efficiency upgrades of existing schools. This was previously part of the commercial construction program; however, school-specific outreach and education are necessary.
<i>School Financing</i>	<i>Only administrative expenses</i>	<i>Develop various financial instruments through partnerships with traditional lending sources that can be used to encourage spending on efficiency and renewable energy.</i>
Renewable Energy Funding (\$36 million)		
Renewable Energy Grants and Rebates	\$33.6	Provides rebates for customer-sited renewable energy systems and funding for larger scale renewable energy projects that supply power to the electrical grid through a competitive solicitation process.
<i>Infrastructure Development Program for Renewable Energy Businesses</i>	\$2.4	<i>The Board approved the issuance of this solicitation on January 8 2003 with a total budget of \$2.7 million.</i>
Continuing Programs (\$15 million)		
Energy Star Homes Program	\$9	Offers performance based incentives to new construction that meet or exceed the Energy Star Homes criteria. <i>Incentives will be limited to areas designated for growth in the state plan.</i>
Appliance Cycling Program	\$6	This program provides monthly credits to customers that cycle off central air conditioning units during peak energy demand periods, and has significant value as a peak reduction program, which reduces overall electric costs. Until another means of funding it can be developed, it will continue to receive SBC funding.

Additional Programs (\$2 Million)		
<i>Tree Planting Program</i>	\$2	<i>Strategic tree planting in urban areas, creates cooling which lowers demand for air conditioning and addresses the 'urban heat island effect.' With financial assistance from the New Jersey Tree Foundation, this program would be piloted in one or two urban areas.</i>
TOTAL	\$120	

CHART III Interim Planning Budget for Continuing Clean Energy Programs

Program Name	2002 Program Budget as Filed by the Utilities (in Millions)	2003 Straw Proposal Interim Budget Recommendations (in Millions) *Budget reflects costs for incentives, direct install measures and training ONLY	2003 Interim Planning Budget for Continuing Programs (in Millions)	Notes of Clarification
HVAC gas and Electric	\$24.2	\$7*	\$7*	
Residential New Construction	\$14.7	\$9*	\$9*	
Residential Retrofit Program	\$1.2	\$0	\$0	Program is closed down.
Residential Low Income	\$15.5	\$14*	\$14*	
Commercial/Industrial Construction	\$28.4	\$10* for commercial new construction + \$10* for retrofit + \$12* for school new construction and retrofit = \$32*	\$28.4*	The Utilities are directed to make school based projects a major focus of this program until such time as the specific school program budget is finalized.
Building Operation and Maintenance	\$0.9	\$0	\$0	Training program continues under C/I program.
Compressed Air	\$0.6	\$0	\$0	Program is folded into C/I program.
Appliance Cycling	\$7.3	\$6*	\$6*	

CHART III con't

Schools Energy Efficiency and Renewable Energy Education	\$1.0	\$0	\$0	THIS PROGRAM IS SHUT DOWN, but education on school based efficiency and renewable energy systems is expected to be included under the new educational programs.
Customer Sited Program	\$16.5	\$33.6*	\$16.5*	
Grid Supply Program	\$14.9	See above, combining of program budgets for renewable energy programs is proposed.	\$14.9*	
Infrastructure Development for Renewable Energy Businesses in New Jersey	Not budgeted	\$2.4*	\$2.7	The issuance of a solicitation and the total funding of \$2.7 million for this program was approved by the Board at the January 8, 2003 Board meeting.
Total	\$125.2	\$104*	\$98.5*	SEE NOTE BELOW

Note: The totals listed in CHART III are for continuing Clean Energy Programs ONLY and do not reflect budgets for new programs that are being proposed for review by the New Jersey Clean Energy Council and subsequent Board action.

This order serves to clarify and define the Board's revised vision of the New Jersey Clean Energy Programs.

DATED: 3/4/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

DISSENTING OPINION OF COMMISSIONER CAROL J. MURPHY

I remain opposed to the senior housing weatherization pilot program for the reasons set forth in my January 22, 2003, dissenting opinion regarding that program in Docket No. EX99050347 et al. I do support the other clean energy programs and therefore dissent from the Board's decision only as to the senior housing weatherization program.

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

ATTEST:

(SIGNED)

KRISTI IZZO
SECRETARY